IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19007 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHOJIBEN PATHA SOLANKI
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MS E.SHAILAJA for Petitioner
Mr Neeraj Soni, Assistant Government Pleader for Respondents 1,4 and 5
Respondent(s) : 2,6 and 7 - Deleted
Ms MO NARSINGHANI for Respondent(s) : 3,
MR HS MUNSHAW for Respondent(s) : 8,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 20/07/2007

ORAL JUDGMENT

Ms Shailaja, learned advocate for the petitioner seeks permission to delete respondents Nos.2, 6 and 7. Permission granted. Respondents Nos.2, 6 and 7 stand deleted from the proceedings.

RULE. Mr Neeraj Soni, learned Assistant Government Pleader waives service of Rule for respondents Nos.1, 4 and 5, Ms Manisha Narsinghani waives service of Rule for respondent No.3 and Mr HS Munsha waives service of Rule for respondent No.8. At the request of the learned advocates for the parties, the matter is taken up for final hearing today.

The petitioner who is an unfortunate victim of earthquake which occurred on 26th January 2001 has approached this Court with a grievance that though as per the policy of the Government she is entitled to receive Rs.50,000/- by way of compensation for the injuries suffered by her in the earthquake and Rs.10,000 for major operation that has been performed upon her, she has been paid only Rs.25,000/- uptil now. It appears that the petitioner is resident of village Neelpar, Taluka Rapar, District Kutch which was badly affected by earthquake. She received serious injury on her left leg. After initial treatment at local hospital, she was removed to Ahmedabad for further treatment. She was issued the Certificate at Civil Hospital, Ahmedabad on 24.4.2001 to enable her to produce the same before respondent No.8 for obtaining the compensation, since respondent No.8 at that time was the authority appointed to deal with the payment of compensation to earthquake affected persons. In the said certificate the disability of the petitioner was stated to be 40%. It appears that subsequently as a part of the treatment, the left leg of the petitioner was required to be amputated below the knee. The operation was also performed at Civil Hospital, Ahmedabad. The Civil Hospital issued another Certificate dated

31.8.2003 whereby the disability suffered by the petitioner was described as 50%. In view of the same, the petitioner approached respondent No.8 for obtaining more compensation. However, she was informed that respondent had by then ceased to be the authority disbursing the compensation and the power was now vested in respondent No.3. It is the say of the petitioner that for almost over four years the petitioner has been requesting different authorities to consider her claim for more compensation, but the same has not been responded to by any of the authorities.

I have heard Ms Shailaja, learned advocate for the petitioner. Mr N.D.Soni, learned Assistant Government Pleader for respondent Nos.1, 4 and 5, Ms Manisha Narsinghani, learned advocate for respondent No.3 and Mr HS Munshaw, learned advocate for respondent No.8. I have also perused the record of the petition.

Ms Shailaja has drawn my attention to the resolution passed by the Revenue Department, Government of Gujarat dated 6.2.2001. By the said Resolution the Government had decided to give financial aid to the persons who had received physical injuries in the earthquake of 26.1.2001. By the said resolution it was decided that the persons who had suffered permanent disability over 40% should be given Rs.50,000/-. It is also prescribed that if major surgery was performed on any person, he or she would be entitled to receive Rs.10,000/- for the operation expenses. As stated above, in the present case the petitioner's left leg below the knee has been amputated. She, therefore, claimed financial aid in accordance with Resolution dated 6.2.2001. According to her, she had suffered permanent disability over 40% and, therefore, she was entitled to receive Rs.50,000/- by way of compensation from the Government. She also claimed Rs.10,000/- for the major operation. It

clearly appears that the claim of the petitioner is absolutely justified. The record of the petition and in particular the medical certificates clearly show that the petitioner has suffered permanent disability over 40% and, therefore, she is entitled to receive Rs.50,000/- by way of financial aid. There is also no dispute that her left leg had to be amputated as a part of the treatment for which a major surgery was performed on her. In that view of the matter, she is also entitled to receive Rs.10,000/- as per Resolution dated 6.2.2001. It is now submitted by Mr Munshaw for respondent No.8 that so far as respondent No.8 is concerned, now the power to give financial aid does not exist with respondent No.8 and now it is the solely rests with respondent No.5. In view of the same, respondents Nos. 1 and 5 are directed to pay to the petitioner balance sum of Rs.35,000/- at the earliest and in any case not later than 31st August 2007.

With the aforesaid the petition is allowed. Rule is made absolute. The respondents to bear the cost of the petition.

(Akshay H Mehta, J.)

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